North Dakota Oil and Gas Royalty

Frequently Asked Questions *(with MT Information)*

***If you require further clarification, please contact the *Montana DNRC* directly.**

Reporting

What reporting formats are allowed to submit royalty data?

***Montana**: We have a form that must be submitted along with payment. It is available in both hardcopy and excel format.*

How are adjusting entries handled?

To make any adjusting entry, you must reverse and rebook. First you must make an entry that will zero out the entry to be corrected, and then rebook the correct entry.

What if we have problems with getting our report to you?

Contact *Montana DNRC* immediately; if it's a known problem, we are willing to work with you until you can resolve the issue.

Regulation, Rules, and Lease

Is the Department of Trust Lands exempt from gross production and oil extraction taxes?

***Montana**: No. Only North Dakota state-owned lands are exempt. The lands owned by the State of Montana are subject to withholding of gross production and oil extraction taxes the same as any other non-exempt lease. Our royalty form has a line for reporting taxes withheld.*

What deductions are allowed on oil?

Royalty on oil is calculated based on the greater of 1) the highest posted price for the field where produced and when run, 2) the highest market price paid for the area where produced and when run, or 3) the gross proceeds of sale.

Gross proceeds of sale means income before deduction of expenses. Basically it means the price you sell the oil for, regardless of what expenses go into arriving at that price. For example, if you transport the oil to an off-lease location for sale and delivery, the royalty is calculated based on the gross price you receive at the ultimate point of sale and delivery. In this example you may NOT deduct or "net out" the expenses incurred in transporting the oil to the ultimate point of sale and delivery.

What deductions are allowed on gas?	Royalty on gas is calculated based on the gross proceeds of sale, where the sale constitutes an arm's length transaction. For a description of what gross proceeds of sale means see "What deductions are allowed on oil." If a sale of gas does not constitute an arm's length transaction, Board of University and School Lands Oil & Gas Rule 85-06-06-08 governs calculation of royalties.
What is the maximum penalty and interest that can be applied to delinquent royalty payments?	Oil and Gas Rule 85-06-06-10, "Reports of Lessee-Delinquent Penalty," states that any sum, other than annual delay rentals, not paid when due is subject to a delinquency penalty of 1% for each 30 day period of delinquency or fraction thereof. Additionally, North Dakota Century Code §47-16-39.1 states that if an operator fails to pay oil or gas royalties to a mineral owner within 150 days after production, the operator must pay interest on the unpaid royalties. Payment of interest is required whether or not the mineral owner requests it. The maximum interest is 18% per annum until paid.
Do we have to pay royalties on Flared Gas?	It depends. North Dakota Century Code §38-08-06.4 details the requirements for when royalties are due on flared gas.
Are we required to report all oil and gas produced at a well or unit, or just the Department's share?	North Dakota Administrative Code §43-02-06-01, "Royalty Owner Information Statement," requires that 100% of the corrected volume of oil and gas sold must be reported. This section also states all items that are required on a royalty statement.